Attachment

Response to Comments

from Heal the Bay on Tentative NPDES Permit for the Joint Water Pollution Control Plant (JWPCP)

Thank you for your comments to the above-referenced WDR and NPDES permit. The following are the Los Angeles Regional Water Quality Control Board (Regional Board) staff's responses to your comments provided on March 13, 2006:

I. The Tentative Permit should include WQBELs for all constituents listed in Table B of the Ocean Plan.

Comment: *On April 21, 2005, the State Water Resources Control Board amended the Ocean Plan to include Reasonable Potential Analysis ("RPA") procedures for determining when a Water Quality-Based Effluent Limitation is required. This RPA approach can* greatly *reduce the number of WQBELs in an NPDES permit. For instance, as a result of RPA, twenty-six effluent limitations in Order No. 97-090 are not included in the Tentative Permit. Thus, the Tentative Permit contains only 21 effluent limitations, whereas Order No. 97-090 has 43 effluent limitations. As a result, many of the water quality objectives provided in Table B of the Ocean Plan have no associated effluent limitation prescribed in the Tentative Permit. "Instead, a narrative limit statement to comply with all Ocean Plan objectives is provided." (Tentative Permit at F-20). This doesn't make any sense; why not just continue to include the limits that have been in the previous permits?*

To remedy this situation, the Regional Board should employ Best Professional Judgment ("BPJ") in prescribing WQBELs in the Tentative Permit and not the RPA approach.[1] *This is supported by the complex nature and multiple sources of influents to the JWPCP from industrial*[2]*, commercial and residential sources. There is a great deal of latitude under the Ocean Plan to use BPJ to include constituents that that are not prescribed WQBELs under the RPA approach. Plainly, the influent is dynamic and effluent limitations are necessary to account for any changes in influent and effluent quality. For instance, the County has expressed a willingness to divert metal-laden runoff and stormwater to the JWPCP as a compliance measure for various Total Maximum Daily Loads (TMDLs). In addition, a number of metal plating and manufacturing facilities are within the JWPCP wasteshed and have the potential to contribute high metal loads and concentrations to the influent. As written, the Tentative Permit does not include effluent limitations for most metals including such commonly found metals as cadmium, copper, lead, mercury, nickel, silver and zinc. Given that stormwater and nuisance runoff in Los Angeles County is very high in metals, it is not justifiable simply to conclude that the quality of JWPCP's discharge will remain relatively constant or improve during this permit term. Moreover, due to the de-listing of Santa Monica Bay for metals in 2002, the public cannot rely on other protections to prevent metal discharges to the Bay. Instead, the public must rely on NPDES permits, like the Permit currently under consideration to ensure that metals standards are not exceeded. In short, the Tentative Permit should include WQBELs based upon* all *water quality objectives listed in Table B of the Ocean Plan.*

On a larger scale, the Regional Board should consider whether such a relaxation in the number of effluent limitations is sound public policy for the water body in the period to be governed by the new permit. The RPA approach should not grant dischargers "free exceedances" of the Ocean Plan Table B constituents without a risk of enforcement. The current permit does just that. In addition,

[1] The Ocean Plan allows for the use of BPJ if information about the receiving water body or the discharge support a reasonable potential assessment (RPA) without characterizing facility-specific effluent monitoring data. (Ocean Plan, Appendix VI).

[2] Of note, the Tentative Permit states that there are more than 1200 significant industrial users discharging to the JWPCP. (Tentative Permit at 4).

maintaining effluent limitations from Order No. 97-090 provides no additional burden to the Permittee as they would only need to maintain current wastewater treatment facility performance. Thus, including additional WQBELs in the Tentative Permit is an appropriate Regional Board action.

If the Board fails to include WQBELs for all the Ocean Plan Table B constituents, at a minimum, it should at least add specific language in the Tentative Permit that addresses the potential situations where JWPCP discharges effluent that exceeds the Ocean Plan Table B objective multiplied by the dilution factor. Specifically, the Tentative Permit should require immediate reporting of these exceedances. In addition, if an exceedance occurs, the Tentative Permit should require the Regional Board to add a WQBEL for that constituent at the next upcoming *public hearing. As seen in numerous cases in our region and around the State, this provision is vital in any permit utilizing the RPA approach in order for it to work and remain protective of water quality. As the Board is well aware, the Regional Board is understaffed and has a difficult time keeping up with all of the monitoring data for its large number of NPDES permits. The result is seen most obviously in that case of Boeing's Santa Susana Field Laboratory, where the monitoring data was not reviewed in a timely manner and thus did not lead to required new effluent limits as envisioned by the Board when it issued that permit. A protocol for addressing these issues must be included in the Tentative Permit if the Regional Board continues to apply the RPA approach in these major NPDES permits.*

Response: Regional Board staff followed procedures described in the 2005 Ocean Plan to evaluate reasonable potential and establish whether or not water quality based effluent limits (WQBELs) for the JWPCP were necessary. This undertaking was conducted on a pollutant-by-pollutant basis for all Ocean Plan Table B toxics following NPDES regulations at 40 CFR 122.44(d)(1). The statistical procedures for evaluating reasonable potential in the 2005 Ocean Plan are, in general, more stringent that those recommended in USEPA's *Technical Support Documents for Water Quality-based Toxics Control* (USEPA, 1991; TSD). For pollutants where reasonable potential was not established, antibacksliding provisions under Clean Water Act Section 402(o) generally prohibit the relaxation of established WQBELs except where specific exceptions are met. In this case, because the new information exception under Section 402(o)(2) was met, the Tentative Permit proposed removal of a number of toxics WQBELs contained in the 1997 permit. Although the commenter questions the wisdom of this relaxation, Regional Board staff have followed proper regulatory procedures in making this change, including rigorous statistical examination of large effluent data sets (from November 2002 to August 2005 when the JWPCP in full secondary treatment mode). Moreover, we believe that the Tentative Permit contains adequate safeguards, in the form of strict concentration-based effluent performance goals for toxic pollutants without WQBELs that will signal changes in effluent quality, along with prescribed follow-up investigatory actions should performance-based concentrations be exceeded. Because our reasonable potential evaluation so conservatively estimates effluent variability and corresponding projections of worst-case effluent quality, and because proposed concentration-based effluent performance goals are calculated using current treatment plant performance data, we do not expect exceedances of Table B objectives for toxic pollutants without WQBELs during the coming permit term. However, the permit contains permit reopener provisions allowing modification of the permit to include WQBELs when new information demonstrates such conditions are necessary to protect water quality standards (e.g., Tentative Order Section VI.C.1.c., etc.). We believe the reopener provisions in this section of the permit are sufficient and that the addition of a new provision requiring the addition of a WQBEL if certain conditions occur is not necessary. Regional Board staff have followed a water quality based permitting approach that is consistent with Ocean Plan requirements and NPDES regulations. This permit contains a system for limiting, monitoring, and evaluating changes in effluent quality and mass emissions to best protect water quality in Santa Monica Bay.

In addition, the Tentative Permit requires the Discharger to implement and enforce a Pretreatment Program in its entire service area, which includes permitting activities where the industrial facilities are subject to categorical and local numerical effluent limitations; routine sampling and monitoring of the facilities covered under permits; random sampling and monitoring through the sewer system; routine inspections; routine industrial user surveys to determine the existence of any new discharger. Furthermore, the Tentative Permit requires that a local limits re-evaluation be performed with each

iteration of the permit to determine if any pollutant may create an impact on the plant's operation and performance and therefore a local numerical effluent limit must be imposed. The well-run Pretreatment Program implemented by the Discharger has resulted in the relative stable influent quality and the effluent has consistently met permit effluent limitations over years.

Regional Board staff recognize the removal of twenty-six effluent limitations in the Tentative Permit when compared to the number of effluent limitations in the 1997 permit. Hence, the Tentative Permit prescribes both acute and chronic toxicity limitations based on Best Professional Judgement (BPJ) to provide "backstop" for the removal of these effluent limitations although monitoring toxicity data for the effluent consistently indicate no reason potential. Based on reasons addressed above, Regional Board staff believe that it is not appropriate to prescribe WQBELs for all constituents listed in Table B of the Ocean Plan.

Modification: There is no change in the Tentative Permit in response to this comment.

II. Performance goals and mass emission benchmarks should be replaced with enforceable effluent limitations.

Comment: *Performance goals and mass emission benchmarks are extremely poor regulatory mechanisms, and thus, should be replaced with enforceable effluent limitations. The Tentative Permit argues that "…the continued use of performance goals serves to maintain existing treatment levels and effluent quality and supports State and Federal antidegradation policies." (Tentative Permit at F-27). However, the Permit does not explain* how *these goals and benchmarks will help to ensure that effluent water quality will not backslide or cause degradation of receiving water quality. In fact, it appears that the performance goals provide an open invitation for the discharger to violate Ocean Plan water quality objectives:*

> *"If the exceedance [of performance objectives] persists in three successive monitoring periods, the Discharger shall submit a written report to the Regional Water Board on the nature of the exceedance, the results of the investigation as to the cause of the exceedance, and the corrective actions taken or proposed corrective measures with timetable for implementation, if necessary."*

(Tentative Permit at F-28). What happens in the event that the Permittee exceeds a performance goal every other monitoring period? Under the Tentative Permit, the discharger may be exceeding Ocean Plan water quality objectives without being held accountable. How many performance goals were exceeded in the last permit cycle? The Permittee's 2004 Annual Report data summary tables indicate that there were exceedances of performance goals for total halomethanes, diethylhexyl phthalate, and 2,4,6-trichlorophenol (2004 Annual Report at Table 4-4). What actions, if any, were taken by the Regional Board and the Permittee? Plainly, performance goals are extremely ineffective and should be replaced with effluent limitations that prevent backsliding and will ensure the Permittee takes appropriate actions to meet water quality objectives.

If the Regional Board fails to eliminate these ineffective performance goals, it should, at a minimum, modify the performance goal provisions in the Tentative Permit that allow effluent quality to decrease*. For instance, according to the Permit, performance goals may be increased, "if the Discharger requests and has demonstrated that the change is warranted." (Tentative Permit at 21, footnote 8). In fact, several performance goals in the Tentative Permit have increased from the values in Order No. 97-090. For example, performance goals for phenolic compounds (non-chlorinated), phenolic compounds (chlorinated), diethyl phthalate, beryllium, bis(2-ethylhexyl) phthalate, chloroform, halomethanes, 2,4,6-Trichlorophenol are all higher in the Tentative Permit. Does this mean that when a performance goal is exceeded the only result is an increase in the performance goal itself? The Permittee should not be allowed this mechanism to decrease their effluent quality, especially when the Tentative Permit correctly touts that the enhanced secondary treatment has* improved *effluent quality. Secondly, the approach used to develop performance goals should be modified as it also may lead to a decrease in water quality. For instance, if a constituent is not detected in any*

monitoring data, the Regional Board sets the performance goal at five or ten times the reporting limit. (Tentative Permit at 21). This calculation approach is inappropriate. The more conservative approach would be to set the performance goal at the reporting limit. Also, why are there no performance goals established for daily maximums or instantaneous maximums as well as monthly average? A logical approach would be to include performance goals for these categories as well if the Board chooses to continue having them in the Tentative Permit at all.

Response: : The Tentative Permit proposes both concentration-based and mass-based numerical performance values for Ocean Plan Table B toxic pollutants in the JWPCP discharge. The concentration-based effluent performance values are called "performance goals". These monthly values were developed using JWPCP effluent data from November 2002 to August 2005 when JWPCP operated in full secondary mode, and are statistically calculated to represent the upper bound of treatment plant performance for these toxics (see Section IV.E of the Tentative Fact Sheet for detailed procedures). Exceedances of a goal will result in follow-up investigatory actions by the permittee, and the potential for additional permit controls found necessary to protect water quality, in accordance with applicable State and federal requirements. In the Tentative Order, they are presented in the Table with other effluent quality discharge requirements reported on a regular basis to the Regional Board, in order to highlight the fact that more immediate follow-up actions by the permittee may be required based on monitoring results for the specified reporting period.

In the Tentative Permit, mass-based performance values are generally called "mass emission benchmarks". These values were developed using the JWPCP effluent performance data following procedures described in Section IV.G. of the Tentative Fact Sheet, and the permittee's projected end-of-permit effluent flow of 338 mgd, consistent with the approach used in other federal permits issued to Southern California Bight dischargers. They are historically expressed as an annual average, in metric tons. At a minimum, an exceedance of these projected end-of-permit threshold values will trigger the need for an Antidegradation Analysis at the time of permit reissuance. Regional Board staff note that mass emission benchmark values have been historically presented in the monitoring and reporting programs of other NPDES permits issued to Southern California Bight dischargers to emphasize that these values are not effluent limits and to facilitate reporting and referencing by biologists reviewing ambient monitoring data generated under the permit.

Both performance goals and mass emission benchmarks are not enforceable limitations or standards. As mentioned in the Tentative Permit, these two performance values are used as an early warning for any adverse change in the JWPCP's operation. The exceedance of any performance goal will not necessarily cause any violation of Ocean Plan water quality objectives since, in general, the values of performance goals are much lower than the calculated effluent limitations based on Ocean Plan procedures with the application of a dilution credit. However, Regional Board staff recognize that performance goals for some constituents are set to calculated effluent limitations because the derived performance goal using prescribed performance goal procedures exceeds its calculated effluent limitation. To remedy this problem, the Tentative Permit language has been revised to require reporting to the Regional Board when any exceedance of performance goals for these particular constituents occurs.

With regard to the past performance goal exceedances for total halomethanes, bis(2-ethylhexyl) phthalate and 2,4,6-trichlorophenol, raised by HTB in this comment, the Districts reported to the Regional Board as follows:

While HTB mentions an exceedance of a performance goal for 2,4,6-trichlorophenol in the 2004 Annual Report for JWPCP at Table 4-4, no such exceedance occurred. All four effluent 2,4,6-trichlorophenol samples at the JWPCP in 2004 contained non-detectable [The detection limit is higher than the performance goal value. an added statement by Regional Board staff] concentrations of this compound. Performance goals for halomethanes and bis(2-ethylhexyl) phthalate were set based on past performance for these compounds, at the 95th percentile level. Therefore, under normal operation of JWPCP, exceedances of these performance goals would occur once in every twenty samples. For bis(2-ethylhexyl) phthalate, the current performance goal is 16 ug/L, while the current

effluent limitation (30-day average) is 585 ug/L. Out of the four JWPCP effluent bis(2-ethylhexyl) phthalate samples analyzed in 2004, only one had a detectable concentration, at 17.6 ug/L. While this exceeded the performance goal, it was thirty times less than the effluent limitation. Also, this single exceedance did not indicate any long term increasing trend in effluent bis(2-ethylhexyl) phthalate concentrations, but rather was simply indicative of normal statistical variability in effluent concentrations for this compound. Similarly, for total halomethanes the performance goal is 2 ug/L. The maximum concentration detected in the JWPCP effluent in 2004 was 3 ug/L. There is no effluent limitation for halomethanes, but instead the current JWPCP NPDES permit contains a footnote stating, "The calculated limits based on Ocean Plan objectives are orders-of magnitude higher than the prescribed performance goal values, therefore, no numerical limits are prescribed." If an effluent limitation were to be calculated using the JWPCP's minimum initial dilution of 166:l and the COP Table B value for halomethanes, the effluent limitation would be 21,580 ug/L. This is seven thousand times the value of the maximum concentration of halomethanes in the JWPCP effluent during 2004. Clearly, exceeedances of performance goals are not necessarily indicative of water quality issues.

Modification: Section IV.B.2. of the Tentative Order has been revised as follows:

B. Effluent Limitations and Performance Goals

2. The performance goals for Discharge Serial Nos. 001 and 002 are also given below. The listed performance goals are not enforceable effluent limitations or standards. However, the Discharger shall maintain, if not improve, its treatment efficiency. Any exceedance of the performance goals shall trigger an investigation into the cause of the exceedance. In general, if the exceedance persists in three successive monitoring periods, the Discharger shall submit a written report to the Regional Water Board on the nature of the exceedance, the results of the investigation as to the cause of the exceedance, and the corrective actions taken or proposed corrective measures with timetable for implementation, if necessary. For chromium (VI), chlorinated phenols, acrylonitrile, bis(2-chloroethyl) ether, n-nitrosodi-n-propylamine, and 2,4,6-trichlorophenol, since performance goals are set to calculated effluent limitations, any single exceedance of these performance goals in any monitoring period shall be reported to the Regional Board.

III. The Permittee should evaluate current disinfection practices and further explore impacts of chlorination on the receiving water.

Comment: *Disinfection byproducts formed by the Permittee's chlorination practices may severely impact the marine ecosystem. Sewage contains high concentrations of organic matter, nitrates, nitrites and ammonia. As a result, the chlorination of sewage forms chloramines very quickly and often produces a wide variety of chlorinated organics in the effluent. Of particular concern is the possibility that chlorinated petroleum-based organics, furanones, fulvics and other non-volatile organics will be formed. Also, any residual chlorine or free chlorine available by the time the effluent hits sea water may lead to the formation of a wide variety of brominated organics.*

The Board should require that the Permittee fully evaluate the current chlorination system and any possible receiving water impacts from chlorination practices. Since full secondary treatment was instated during the last permitting cycle, it is important to evaluate impacts of the modified treatment process. After full secondary treatment was achieved in 2003 did the Permittee explore less dosing? Have alternative systems been explored such as ozonation or ultraviolet disinfection? Is disinfection still necessary at all? At a minimum, the Permittee should further explore the impacts of chlorination on the receiving water. Although the Permittee conducts effluent monitoring for a handful of chlorinated organics and performs toxicity testing, many questions remain. Is quarterly *sampling data for chlorinated organics showing us the complete picture of impacts? Have monitoring results detected chlorinated organics in the effluent? If so, have these results exceeded any thresholds? We strongly support changing the monitoring requirements so the effluent is sampled for chlorinated organics at the White Point manifold in lieu of sampling at the current effluent monitoring location. In the Permittee's 1998* Chlorination By-Product Study*, were three samples enough to assess the*

statistical significance of parallel chlorination-undisinfected effluent toxicity tests? Typically, three samples will give high variations and very low statistical power. Also, is this Study outdated now that full secondary chlorination is up and running? We believe a new study is warranted that includes a wide variety of disinfection byproducts including the higher molecular weight organics, not just the VOCs and semi-volatiles.

Chlorination by-products are a serious issue that should be further explored by the Permittee. As suggested above, many questions remain regarding impacts of the JWPCP's disinfection process. Plainly, the Permittee should evaluate the existing disinfection process, minimize (or even eliminate if feasible) dosing and closely monitor the effluent and receiving water for impacts.

Response: Disinfection of the JWPCP discharge is necessary to protect public health. The effluent plume is transported upcoast by currents. Historical bacteriological monitoring data indicates that water quality standards have been exceeded periodically in the past within kelp beds along the Palos Verdes Shelf and at shoreline stations when disinfection was interrupted.

During renewal of the 1997 JWPCP permit, Heal the Bay raised the issue of whether disinfection byproducts formed by chlorination of the effluent would adversely impact the marine ecosystem. The 1997 permit adopted by the Regional Board required the Districts to conduct a research project designed to determine if chlorination and the potential formation of chlorination byproducts increased the toxicity of the effluent. The Districts performed a study for three months on samples collected before and after chlorination using giant kelp and purple sea urchin as test organisms. The results of the study clearly indicated that toxicity did not increase as a result of chlorination. Furthermore, the results suggest that even at ten times the discharge limit, chlorinated/dechlorinated effluent was non-toxic. In addition, the existing permit requires the Discharger to hold the toxicity samples for four hours to approximate the travel time of the effluent through the discharge tunnel. Should there be any chlorination byproducts present, they will be picked up during the toxicity testing.

The amount of chlorine added to achieve adequate disinfection has decreased significantly with the transition to full secondary treatment at JWPCP. Thus, any production of disinfection by-products also has decreased. Given that the previous study conclusively demonstrated that formation of chlorination byproducts was not a problem and chlorination levels have decreased substantially, there is no need to repeat the research study.

Modification: There is no change in response to this comment.

IV. The Tentative Permit should include a detailed spill reporting protocol.

Comment: *In light of the devastating sewage spill at Manhattan Beach (01/06) and the U.S. Environmental Protection Agency's* Finding of Violation and Order for Compliance *(Docket No. CWA-402-9-03-31, issued 03/04) issued to the County Sanitation Districts of Los Angeles due to its large number of sewage spills, spill reporting requirements are a serious concern for us. Obviously, JWPCP continues to have significant problems with the conveyance system component of their wastewater program, most notably the pumping plants. As such, strong spill reporting requirements are a vital mechanism for insuring public health and water quality are not compromised. Both the Santa Clara River (12/05) and Manhattan Beach (01/06) spills provide clear examples that the current spill reporting and monitoring system is faulty. Simply stated, the standard language for spill reporting requirements included in the Tentative Permit and other NPDES permits for wastewater treatments facilities in Region 4 is very weak and nonspecific. Moreover, the lack of clarity in the permit language can be interpreted many ways, which translates into inconsistent applications of the current spill response protocol. Thus, the Regional Board should thoroughly re-examine this language at this time and include a more detailed protocol for appropriate spill response measures.*

A. Public Notification should take place as soon as possible but not later than two hours after knowledge of an incident.

For spills over a certain volume, the Spill Reporting Requirements in the Tentative Permit require notification of the Regional Board, Office of Emergency Services and the local health agency "as soon as possible but not later than 24 hours of knowledge of the incident." (Tentative Permit at 35 (2a)). This language is improper as there is no possible justification for needing the 24-hour maximum. After a spill is identified by a responsible party, notification should take place immediately*, so that water quality and public health are not compromised due to a reporting time-lag and appropriate protective measures are implemented in a timely fashion. A two-hour maximum for completing public notification is more appropriate as public notification will become a priority for the discharger in the event of a spill and not just an after-thought. Notification can not consist of leaving a message on an answering machine. Notification must be directly to a RWQCB staff member. In addition, the Regional Board should require that the County Sanitation Districts include local media as part of the public notification protocol for spills deemed a threat to public health.*

B. All spill incidents, regardless of volume, should be reported and noticed to the appropriate public agencies and the general public.

The Spill Reporting Requirements in the Tentative Permit require notification of the Regional Board, Office of Emergency Services and the local health agency "for spills, overflows or bypasses of 500 gallons or more that flowed to receiving waters or entered a shallow ground water aquifer or has public exposure, and all spills, overflows and bypasses of 1,000 gallons or more…" (Tentative Permit pg.35-(2a)). This language is unnecessarily weak for several reasons. First the spill volume triggers appear arbitrary. How were these threshold volumes generated, and under what conditions might they fail to adequately protect public health or beneficial uses? Is the Regional Board suggesting that a 499 gallon spill to a receiving water will not be problematic? In fact, in some instances spills of a volume less than 500 gallons can be as much of a water quality and public health concern as a 1,000 gallon spill. In addition, these requirements fail to account for other circumstances such as proximity to receiving waters, time of spill, and flow volumes in the receiving water. In many cases, the location of the spill is a more important factor than the volume spilled. For instance, if 450 gallons of raw sewage were spilled into Santa Monica Canyon at the wave-wash, this would definitely be a public health issue. Yet as written in the Tentative Permit, the 450 gallon sewage spill would not have to be reported in a timely manner. Shouldn't factors such as proximity to the receiving water, receiving water flow, and time of day be accounted for in the spill reporting and public notification requirements? In addition, frequent, small volume sewage spills can be indicative of a larger issue with plant performance. Thus, receiving early notification on sewage spills under the current 500 gallon trigger can be extremely valuable.

C. The monitoring portion of the Spill Reporting Requirements should be enhanced to adequately characterize the spill impacts.

The Tentative Permit also requires monitoring by the Permittee after a spill, overflow or bypass of 500 gallons or more that reaches a receiving water (Tentative Permit at 35 (2b)). Specifically, the Permit only requires bacteria sampling upstream and downstream of the point of entry on a daily basis. Id*. As questioned above, why are spills under 500 gallons not sampled? Does the Regional Board not see a 450 gallon spill as a threat to water quality? The Tentative Permit should require sampling for* any *spill reaching a receiving water, as this is an unregulated discharge to a surface water. In addition, the Tentative Permit should outline a specific protocol for monitoring that captures the size of the plume and any variability in the system.*

The Regional Board should outline a specific water quality monitoring protocol that includes parameters, such as frequency (i.e. daily or hourly sampling), number of sample points (i.e. 3 upstream and 3 downstream), time of collection (a set time after a spill has been reported), upstream and downstream distances of the spill (i.e. every 100 yards). Such a protocol is necessary to capture the variability in the type of spill and current environmental conditions such as tides, flows, time of day, and currents. Also, all spills that visibly reach receiving waters must

be monitored immediately. Waiting 12 hours after the spill reaches receiving waters is not acceptable. It should take no more than two hours to initiate receiving water sampling after a spill reaches the beach.

In addition, the Tentative Permit should require that the Permittee secure a third, unbiased party to collect samples concurrently with its own sampling. In other words, the agency responsible for the pollution should not be the only party monitoring all aspects of a possible catastrophic event. This weakness was unfortunately highlighted during the recent Manhattan Beach spill. Ideally, this should be the Los Angeles County Department of Health Services should be the independent third party, but as we saw in the recent Manhattan Beach spill, the health department failed to provide that role. Many parties and the public have questioned how the Manhattan Beach sewage spill was handled in terms of volume estimates and sampling protocol, both of which were conducted solely by the County Sanitation Districts. A third party involvement in such an effort helps to ameliorate, if not eliminate, perceived or actual bias in the reporting process.

Finally, the Tentative Permit does not require sediment assessment after a sewage spill. As seen in the Manhattan Beach spill, the sand was a major haven for bacteria, yet the sand was not sampled until third parties requested sampling. Notably, this was after several people complained of illness after being in the sand. In addition, loading of bacteria from a spill can impact sediment in receiving waters. Thus, the Regional Board should require that the entire sewage spill plume be tracked in the sediment as well as the water column.

A simpler, more cost effective alternative is for the Regional Board to prohibit containing sewage spills on the sand except in case of extreme emergency. As was demonstrated in the Manhattan Beach spill, containment of the spill on the sand led to the loss of the beach beneficial use for two months, whereas a spill going to the surfzone may have caused a closure of one week at the longest. A requirement for spill management and containment must be to reduce impacts to beneficial uses for a minimum time period.

Response: Regional Board staff agree with Heal the Bay (HTB) that sewage spills are a serious concern for the quality of the waters of the Region and the health of the public and of the environment. State Board is also addressing this very topic at this time by considering issuing shortly a statewide Sanitary Sewer Overflows (SSO) WDR that tackles the very same concerns and deals with many of the concerns raised by HTB. Some of the topics addressed by the upcoming SSO WDR include the preparation of an adequate Sewer System Management Plan (SSMP) that has the goal to have in place a plan and schedule to properly manage, operate, and maintain all parts of the wastewater collection system; an Evaluation and Capacity Assurance Plan that has the goal to provide adequate capacity to convey base flows and peak flows, including flows related to wet weather events; an Overflow Emergency Response Plan that identifies measures to protect public health and the environment including procedures to ensure prompt notification to appropriate regulatory agencies and other potential affected entities; and Fats, Oils, and Grease (FOG) Control Program; and a public participation component. Regional Board staff believe that the proposed SSO WDR contains a detailed set of requirements that addresses many of the HTB's concerns. The Districts will be covered under the SSO WDR.

The Tentative Permit was updated to reflect the spill response protocol required under the law. Based on California Health and Safety Code Section 5410 et seq. and provisions of the California Water Code Section 13271, as soon as the Discharger has knowledge of any discharge, shall immediately notify the local health officer or the director of environmental health of the discharge. The Department of Health Services' protocol for sewage spill is as follows: "When testing indicates that ocean water does not meet State standards, lifeguards are instructed by the Department of Health Services to post warning signs in the affected area. The warning sign indicates that State bacteriological standards have been exceeded and that contact with water in the area may increase the risk of illness to a swimmer. The warning signs are removed after additional testing indicates that bacterial levels have returned to normal levels. If there is a sewage spill or chemical discharge, beaches are immediately closed regardless of the bacteria levels. Beaches are reopened only after

testing indicates ocean waters meet State standards." Spill over 1,000 gallons must also be reported to the Office of Emergency Services (OES) and the Regional Board. However, although the Regional Board is not designated as a first responder agency, Regional Board staff expect that spill response, protective measures and monitoring activities are implemented in a timely fashion, in addition to prompt notification. In addition, the Discharger is also required to update its Spill Contingency Plan to assure proper response measures in case of a spill and is required to provide quarterly reports of all spills, regardless of size, identified during the previous quarter. We have revised language in the Tentative Permit to be more specific and we have included language and a reopener regarding sewage spills into dry channels and/or beach sands. Furthermore, there is a public database in which to find information on spills and updates at the Office of Emergency Services' website: www.oes.ca.gov. The information in this website is very timely and is updated frequently.

Modification: In response to this comment, Regional Board staff have made several changes in the Tentative Permit. We believe these changes will address the concerns of the commenter.

Section VI.C.5.c.(2) in the Tentative Order has been revised as follows:

(2) For certain spills, overflows and bypasses, the Discharger shall make reports and conduct monitoring as required below:

(a) For any spills or overflows of any volume, the Discharger shall immediately notify Department of Health Services and the local health agency.

~~(a)~~ (b) For spills, overflows or bypasses of ~~500 gallons or more~~ any volume that flowed to receiving waters or entered a shallow ground water aquifer or has public exposure~~, and all spills, overflows and bypasses of 1,000 gallons or more,~~ the Discharger shall report such spills to the Regional Water Board, ~~the State Office of Emergency Services and the local health agency~~ by telephone or electronically as soon as possible but not later than 24 hours of knowledge of the incident. The following information shall be included in the report: location; date and time of spill; volume and nature of the spill; cause(s) of the spill; mitigation measures implemented; and corrective measures implemented or proposed to be implemented to prevent/minimize future occurrences.

(c) For any spills or overflows of 1000 gallons or more, the Discharger shall immediately notify the State Office of Emergency Services.

~~(b)~~ (d) For spills, overflows or bypasses of any volume ~~500 gallons or more~~ that reach receiving waters, the Discharger shall obtain and analyze grab samples for total and fecal coliforms or E. coli, and enterococcus, and relevant pollutants of concern, upstream and downstream of the point of entry of the spill (if feasible, accessible and safe) in order to define the geographical extent of impact of the spill. This monitoring shall be on a daily basis from time the spill is known until the results of two consecutive sets of bacteriological monitoring indicate the return to the background level or cessation of monitoring is authorized by the County Department of Health Services.

~~(c)~~ (e) For spills, overflows or bypasses of any volume ~~500 gallons or more~~ that flowed to receiving waters or entered a shallow ground water aquifer, and all spills, overflows and bypasses of 1,000 gallons or more, the Discharger shall ~~make a good faith effort to~~ analyze a grab sample of the spill or overflow for total and fecal coliforms or E. coli, and enterococcus, and relevant pollutants of concern depending on the area and nature of spills or overflows if feasible, accessible, and safe.

~~(d)~~ (f) The Regional Water Board notification shall be followed by a written preliminary report five working days after verbal notification of the incident. Within ~~10~~ 30 days after submitting preliminary report, the Discharger shall submit the final written report to this Regional Water Board. The written report shall document the information required in subparagraphs (a) and (c) above, monitoring results and any other information required in Provision V.E.1 of the Standard

Provisions (Attachment D). An extension for submittal of the final written report can be granted by the Executive Officer for just cause.

The following requirements have been added into Section VI.C.3.b.

b. **Spill Contingency Plan**

Within ninety days of the adoption of this Order, the Discharger is required to submit a Contingency Plan for sewer overflows that reach water bodies, including dry channels and beach sands, where affected by the spill.

Within six months of the adoption of this Order, the Discharger is required to convene a multi-agency workgroup to review the Contingency Plan and make their recommendations to the group for the most applicable containment, cleanup and monitoring of sewer overflows that reach dry channels and/or beach sands.

Within eighteen months of the adoption of this Order, the Discharger should submit a revised Contingency Plan which provides the most applicable containment, cleanup and monitoring of sewer overflows that reach dry channels and/or beach sands.

A reopener provision regarding the Spill Contingency Plan has been added in Section VI.C.1.

"This Order will be reopened in two years to include the recommendations of the required muti-agency workgroup on the Districts' Spill Contigency Plan for spills or overflows that impact dry channels and/or beach sands."

V. The Monitoring and Reporting Program (MRP) should be enhanced to adequately characterize impacts from the discharge.

A. Bay Monitoring

Comment: *Heal the Bay has a number of concerns about the monitoring and reporting program (MRP). Like the Hyperion Treatment Plan permit, once again, the Regional Board is making a decision on a MRP without having an approved Santa Monica Bay monitoring program. As Heal the Bay has stated in commenting on numerous discharge permits in the past 13 years, developing and implementing a Bay-wide monitoring program is critical for assessing the health of the Bay. We are supportive of the Board's efforts to require LACSD participation in the Bay-wide monitoring effort, but we continue to be frustrated at the slow pace of the program's development and implementation. Inclusion of a participation date within the permit would help ensure that the Santa Monica Bay Restoration Commission (SMBRC) would complete and approve the monitoring program in a timely manner and the Regional Board would require implementation of key elements of the monitoring plan by a date certain. We suggest including a requirement to help implement the Bay-wide monitoring plan by June, 2007 at the latest.*

Response: Many elements of a Bay-wide monitoring program for Santa Monica Bay already have been implemented through the Southern California Bight comprehensive monitoring programs for coastal waters conducted in 1994, 1998 and 203, and through the Central Region Kelp Survey Consortium monitoring initiated in 2003. The Santa Monica Bay Restoration Commission's Technical Advisory Committee (TAC) has agreed to develop specific monitoring program recommendations to address remaining gaps in the Bay-wide monitoring required to assess the health of Santa Monica Bay. Regional Board staff do not believe it is appropriate to place a deadline on that process, since the TAC is working diligently on this effort and will take whatever time is deemed necessary to develop a satisfactory product. In any case, it appears that the TAC will provide its recommendations by December 2006, if not sooner, which would be earlier than the June 2007 deadline suggested by Heal the Bay.

Modification: There is no change in response to this comment.

B. Rocky Sub-tidal Monitoring

Comment: *In the 1997 JWPCP NPDES permit, there were requirements to annually monitor 12 rocky sub-tidal inshore diving stations along four transects. (See T-31 of No. CI-1758). The annual surveys included qualitative estimates of fish abundance, description of conditions on the bottom, and quantitative surveys (with counts of organisms living on the substrate and percent cover on the substrate) of transects laid along a uniform depth contour of 80 feet. Community structure analyses of the quantitative transect survey data was conducted for each station.*

This requirement was eliminated from the Tentative Permit. Why was the requirement eliminated since it provides critical data on the health of a poorly monitored community? Recall that nearly all of the monitoring requirements in the permit are for the soft bottom habitat and that the gap of poor monitoring in the rocky sub-tidal habitat is a primary priority of the SMBRC. Heal the Bay strongly urges the Board to maintain this requirement and to add to it by including monitoring requirements for the Palos Verdes shelf kelp forests.

The LACSD has long monitored the health of the PV shelf kelp forests, yet there are no requirements to continue or modify this effort under the draft permit. In fact, the permit includes participation in the Central Region Kelp Survey Consortium, yet there are no requirements to monitor the very kelp forests that are potentially impacted by JWPCP discharges. This oversight should be corrected. Heal the Bay urges the board to require staff to meet with LACSD biologists to develop a mutually agreed upon kelp forest monitoring program for the PV shelf. The Santa Monica Baykeeper, due to their extensive ongoing restoration efforts, and Reef Check should be consulted in the process. Among the parameters that should be annually assessed include canopy, density, kelp forest health, community structure in the forest (see above), etc.

Response: The Districts conducted monitoring of the rocky subtidal community for many years. However, rocky subtidal monitoring was discontinued as a permit requirement in 2002 in favor of conducting kelp monitoring as part of the Central Region Kelp Survey Consortium. This change was based on recommendations contained in the guidance developed for the Model POTW Monitoring Program and to implement kelp monitoring desired by the Santa Monica Bay Restoration Commission. This revision to the Monitoring and Reporting Program was approved by the Los Angeles Regional Board at a public hearing conducted on August 29, 2002.

Quarterly surveys of the extent of kelp beds are conducted via aerial overflights along the coast of Los Angeles and Ventura Counties, including the areas potentially impacted by JWPCP discharges. Santa Monica Baykeeper has been provided with the results of the Central Region Kelp Surveys. The members of the Central Region Kelp Survey Consortium meet once a year to discuss potential changes to the monitoring design. At the present time, aerial overflights to assess the extent of the kelp canopy appear to satisfy the program's objectives. However, if the Santa Monica Bay Restoration Commission's TAC recommends additions to the kelp monitoring, these will be implemented.

Modification: There is no change in response to this comment.

C. Bioaccumulation and Seafood Safety Monitoring

Comment: *Lipid values vary dramatically in fish based on the season due to the impacts of reproductive cycles. Although Heal the Bay supports the annual monitoring frequency, we urge the Board to work with the LACSD staff to determine the most appropriate time of year to collect the fish for bioaccumulation and chemical contamination. Ideally, the Districts should collect the fish during the season when they have the highest lipid concentrations. This "worst case scenario" sampling would be the most protective of human and ecological health.*

The Seafood safety monitoring requirements include participation in the regionally coordinated survey. The permit clearly states the Districts' requirements, but the MRP does not provide the context of the overall level of effort for the program. It is difficult to assess whether or not the regional fish contamination monitoring effort is appropriate without this larger context. Could the Regional Board provide a brief description of the program (number and location of samples, geographic scope in more detail, season for sampling, etc)?

The seafood survey requires specific requirements for rockfish collection. Why are these species (scorpionfish and bocaccio) included as opposed to other rockfish? In addition, the monitoring program is designed to provide information critical to determining the public health risks of seafood consumption yet the pelagic species are not included. Please include mackerel, bonito, and jacks or locally caught tuna, or provide an explanation for why they are not part of the seafood safety monitoring program. Considering that mackerel and bonito are such commonly caught local fish and mercury is a potential concern for pelagic species, these species should be added to the monitoring effort.

Response: The Bightwide Monitoring Programs (conducted in 1994, 1998 and 2003) and the Santa Monica Bay Restoration Commission have recommended a late summer/early fall sampling period for their bioaccumulation programs, so we recommend using the same timeframe for the Seafood Safety Monitoring Program. In the case of white croaker, lipid levels in muscle tissue typically peak in the fall, so that is the time period when the Districts plan to collect this species. For other species targeted in the proposed program (e.g., kelp bass, barred sand bass, black surfperch), spawning takes place over a long period, if not year-round, so the Districts plan to collect these species in the late summer to early fall to coincide with other programs.

The details of the Regional Seafood Safety Survey have not been specified in the monitoring and reporting program because they will be determined in the future by a Regional Steering Committee and/or the State of California's Office of Environmental Health and Hazard Assessment.

Scorpion fish and bocaccio were chosen as the target species for the Local Seafood Survey based on recommendations several years ago by the Santa Monica Bay Restoration Project's Technical Subcommittee. These species represent rockfish commonly caught by anglers. The local program focuses on demersal fish species, since these are most closely associated with bottom sediments and are more likely to come into contact with the contaminants of concern. Regional Board staff agree that pelagic fish species, such as mackerel and bonito, also should be sampled periodically, and we would anticipate that these species would be included in a Regional Seafood Safety Survey.

Modification: There is no change in response to this comment.

D. Impacts of Full Secondary Treatment

Comment: *The MRP does not include an assessment of how the monitoring program will help determine the impacts of the JWPCP going to full secondary treatment. As you know, the TSS, BOD and pollutant loads from the JWPCP decreased dramatically after the facility upgraded to full secondary treatment in 2002. The MRP and the findings do not include an explanation of how the proposed monitoring program will help the Board and the LACSD assess the impacts of full secondary treatment on biological community health, water and sediment quality, and fish contamination. This must be a critical part of the intent of the MRP. Was the MRP drafted to help assess these impacts? If not, why not? The MRP must assess the impacts of these changes in a manner at least as effective as the City of Los Angeles' monitoring efforts after they went to full secondary in 1998. In addition, a summary of the impacts of full secondary on mass pollutant loads, effluent concentrations and toxicity should be provided in the permit.*

Response: The Local Benthic Trends Survey addresses the question: Are benthic conditions under the influence of the discharge changing over time? The Local Demersal Fish and Invertebrate Survey and the Local Bioaccumulation Trends Survey pose similar questions. Comparison of the data generated by these surveys to historical surveys should allow the Regional Board and LACSD to assess the benefits of full secondary treatment in reducing the magnitude and/or extent of adverse impacts due to the waste discharge.

Modification: There is no change in response to this comment.

E. Monitoring for Chlorinated Organics

Comment: *As stated below, Heal the Bay remains concerned about the potential environmental impacts of sewage effluent chlorination. Certain halogenated organics of concern have reduced monitoring frequencies like chlorinated phenols (monthly to quarterly), constituents that are discharged in relatively high mass from the JWPCP. Heal the Bay would not object to reducing monitoring frequency if there wasn't so much of the MRP that relies on the SMBRC Bay-wide monitoring plan. Until such time that the Bay-wide plan is completed and the LACSD starts helping to implement the plan, further study on the impacts of chlorination post-full secondary would be extremely helpful. The disinfection byproduct study completed by the LACSD was over 8 years ago, it was on mixed primary/secondary effluent, and it used MLs that may be higher than the methods currently used by the Districts. Heal the Bay recommends that the Board require and updated chlorination byproduct study on JWPCP's effluent where the effluent is collected from the outfall manifold at Whites Point. This study should include effluent analyses for halogenated organics ranging from VOCs to higher molecular weight – non-volatile organics.*

Page E-42 footnote 3 states that fecal coliform sampling can be omitted at the inshore stations if the total coliform sampling program demonstrates compliance with the fecal coliform limits. Please specify that this only applies to methods where quantification of fecal coliforms takes longer than total coliforms. With the impending arrival of rapid indicator detection methods, this may not be the case in the near future.

Response: The disinfection byproducts study completed by the Districts as required by the 1997 permit conclusively demonstrated that chlorination was not adversely impacting marine ecosystems. Since then, the amount of chlorine added for disinfection has decreased considerably as the conversion to full-secondary treatment was completed. Consequently, there is no need to update the chlorination byproduct study.

Modification: There is no change in response to this comment.

F. Toxicity Monitoring

Comment: *Following up on our concern about the impacts of chlorination on effluent quality, please clarify where toxicity samples are collected. We strongly support a requirement to collect the samples for toxicity testing from the outfall manifold at Whites Point because samples collected there will better mimic effluent water quality at the Whites Point outfall than samples collected at the JWPCP. During the travel time for the effluent, all free chlorine will react with the sewage, thereby potentially changing the concentration of disinfection byproducts and toxicity of the effluent.*

Please provide an explanation for why the samples tested for chronic and acute toxicity samples are collected from different outfalls? It appears as if acute toxicity samples are collected from outfalls 001 and 002 while chronic toxicity samples are collected from 003 and 004. Is that correct? If so, why?

Response: According to the Whole Effluent Toxicity Testing Requirements in Section V of the Tentative MRP (Attachment E), both acute and chronic toxicity tests shall be conducted on

flowed-weighted 24-hour composite effluent samples. Since the toxicity tests are not using grab samples, Regional Board staff believe that the sampling location for toxicity tests at the treatment plant is appropriate. In addition, the Discharger claimed that it is difficult to take a sample at the mainfold at Whites Point because of its physical design. Please also see response to comment III on page 6 of this letter.

Modification: There is no change in response to this comment.

G. Mass Emission Benchmarks

Comment: *Please provide a clear explanation of how the mass emission benchmarks were derived in the MRP.*

Response: Please refer to Section IV.G. (Mass Emission Benchmarks) in the Tentative MRP for the procedures. The one-sided, upper 95 percent confidence bound of the 95th percentile is derived based on RPA procedures in the Ocean Plan.

Modification: There is no change in response to this comment.

H. Toxicity Reduction Evaluations and Toxicity Identification Evaluation

Comment: *The TRE requirements do not include language requiring the elimination of ongoing toxicity problems. This should be clearly stated as a requirement. Also, the provisions do not include a clear trigger for a TIE. In fact, F-3 states that a discharger may initiate a TIE as part of the TRE process to identify the cause(s) of toxicity, while F-2 requires a TIE in the event that previous steps don't eliminate the problem. A far more practical approach is to require TIEs every time that there toxicity is found in the effluent. At least a basic screen to assess the category of pollutants that caused the toxicity should occur soon after toxicity violations occur. To wait to perform a TIE after initiation of a TRE makes little sense as Step 2 (optimization of treatment operations, facility housekeeping, and selection and use of in-plant process chemicals) of a TRE will be more effective if the cause of the toxicity is known. Heal the Bay urges the Board to clearly state that TIEs are required when toxicity is found in the effluent. The language in the permit will lead to few TIEs and will not enhance our currently poor understanding of the causes of effluent toxicity in discharger effluent.*

A minor clarification request, for G-1d – Shouldn't there be a sentence that states that if the zeolite treated effluent still causes toxicity in the effluent, then the discharger must perform a TIE to determine the cause of the additional toxicity?

Response: Regional Board staff disagree with the HTB's assertion that a far more practical approach is to require TIEs every time there toxicity is found in the effluent. A TRE is a site-specific study conducted in a step-wise process to narrow the search for effective control measures for effluent toxicity. EPA recommends a generalized process, consisting of six tiers, for performing a TRE. Tier 1 includes the acquisition of available data and facility specific information. Tier 2 evaluates general housekeeping, optimization of treatment plant operation, and the selection and use of process and treatment chemicals as a means of reducing final effluent toxicity. If the efforts of Tiers 1 and 2 do not reduce effluent toxicity to acceptable levels, then Tier 3, a TIE is initiated. Furthermore, since toxicity may be episodic, identification of causes of and reduction of sources of toxicity may not be successful in all cases. The permit requirements are consistent with USEPA's Guidance Documents. However, we will revised the toxicity language to include a clear trigger for a TIE.

We also disagree with HTB assertion that the Tentative Permit shall have language requiring elimination of ongoing toxicity. We believe that such a statement is not necessary because the Tentative Permit contains numeric effluent limitations for toxicity.

The purpose of Section G on page E-25 of the MRP is to specify steps that may be taken by the Discharger to demonstrate that the cause of toxicity was due to ammonia, as a result of an increase in pH during the testing procedure. No clarification is needed.

Modification: To specify a clear trigger in the Tentative Permit, Section V.D.3. of the Tentative MRP has been revised as follows

D. Accelerated Monitoring

3. If the results of any two of the six tests (any two tests in a 12-week period) exceed the limitation, the Discharger shall initiate a Toxicity Identification Evaluation (TIE) and implement the Initial Investigation Toxicity Reduction Evaluation (TRE) Workplan.

VI. Additional Major Concerns

Comment*: Section IV.B.4 of the Tentative Permit includes the JWPCP's waste load allocation of zero days exceedance of single sample numeric limits at shoreline compliance points for fecal indicator bacteria, as specified in Regional Board Resolution Nos. 2002-004 and 2002-022. (Tentative Permit at 23). Why are the rolling 30-day Geometric Mean Limits not included in the Tentative Permit? The Tentative Permit should incorporate these numeric targets as well since they are part of the Santa Monica Bay beach fecal bacteria TMDL.*

Response: Santa Monica Bay Beaches Bacteria TMDLs (Resolution Nos. 2002-004 and 2002-022) state that "waste load allocations (WALs) are expressed as the number of sample days at a shoreline monitoring site that may exceed the single sample targets identified under 'Numeric Target.' Waste load allocations are expressed as allowable exceedance days because the bacterial density and frequency of single sample exceedances are the most relevant to public health protection." The WLAs for both dry and wet weather are both zero so the geometric mean would not add value to the regulation for this facility Therefore, the language in the Tentative Permit is consistent with Santa Monica Bay Beaches Bacteria TMDLs statement.

Modification: There is no change in response to this comment.

Comment: *The ROWD was submitted to the Regional Board on November 9, 2001. This raises the question as to whether the Tentative Permit is based on the most current information. Since full secondary treatment did not occur until January 2003, outdated information may be a major issue. The Board should ensure that it has all the available information it needs to fully evaluate this discharge. Also, the Board should describe all of the information, including the date, used to write the permit.*

Response: In compliance with the regulation, the Discharger shall submit the ROWD to the Regional Board no later than 180 days in advance of the Order expiration date for reissuance of new discharge requirements. Although the ROWD was submitted to the Regional Board on November 9, 2001, as required by the regulation, Regional Board staff are constantly requesting updated information from the Discharger for the renewal of the permit. As mentioned in the previous response and indicated in the Appendices 1, 2, and 3, the effluent data used in the Tentative Permit for the determination of reasonable potential are monitoring results during the period between November 2002 to August 2005 when the JWPCP operated in full secondary mode.

Modification: There is no change in response to this comment.

Comment: *Mass emission limitations are based on the average design flow of 385 mgd. (Tentative Permit at F-23). This is not protective of receiving waters. The Regional Board should use the average effluent discharge flow of 322 mgd, as this number represents the actual flow volume.*

(Tentative Permit at 4). By utilizing the design flow, the Board is allowing much higher mass emissions than is merited based on plant operation.

Response: Although JWPCP has an average effluent discharge flow of 322 mgd from January 2003 to August 2005, the JWPCP effluent flow ranges from 261 mgd to 492 mgd during the same period. The use of average discharge flow of 322 mgd in the calculation of mass emission limitation is not appropriate because it will not account for the large variation in the effluent flow.

Modification: There is no change in response to this comment.

VII. Other Concerns

Comment: *The Tentative Permit requires the discharger to submit suggestions for special studies annually for approval. This requirement is vague and gives no indication of the types of studies and scope that will be required. The Regional Board should provide more detailed requirements.*

Response: As mentioned in Section I.D.3. of the Tentative MRP, the special studies are by nature ad hoc and cannot be typically anticipated in advance of the five-year permit cycle and are focused on refined questions regarding specific effects or development of monitoring techniques. Questions regarding effluent or receiving water quality, discharge impacts, ocean processes in the area of the discharge, or development of techniques for monitoring the same, arising out of the results of core or regional monitoring, may be pursued through special studies. The Tentative Permit intentionally does not have any restriction on the type or scope of special studies. However, the Tentative Permit requires that any special study proposed by the Discharger shall be subject to public hearing process and be approved by the Regional Board.

Modification: There is no change in response to this comment.

Comment: *There is inconsistency among effluent limitations specified for discharges to different outfalls. Why are there no acute toxicity effluent limits for discharges to Serial Nos. 003 and 004? Also, why is there only an effluent limit for 2,4,6-Trichlorophenol for Serial No. 004 and not the other outfalls?*

Response: Since Discharge Serial Nos. 003 and 004 are only used to provide hydraulic relief during the heavy flow, the Regional Board staff believe that acute toxicity effluent limits for discharges from these two outfalls are not required. There has been infrequent discharge (discharge 10 times from 1999 to 2004) through these outfalls. Since there is a smaller dilution credit (115:1) for Discharge Serial No. 004, the results of RPA show reasonable potential to exceed the Ocean Plan water quality objective for 2,4,6- trichlorophenol when discharging through Discharge Serial No. 004. Therefore, an effluent limitation for 2,4,6- trichlorophenol was prescribed for the discharge from Discharge Serial No. 004. For detailed RPA analyses, please refer to Appendices 1, 2, and 3 of the Tentative Permit.

Modification: There is no change in response to this comment.

Comment: *The Tentative Permit requires a re-screening of species for acute toxicity testing every 24 months (Tentative Permit at F-31). Three species should be used for re-screening in order to better account for varying sensitivities.*

Response: The purpose of the re-screening process is to select the most sensitive phyla to the discharge being monitored. For chronic toxicity, three species re-screening is required because this screening represents at least 3 different phyla – vertebrates, invertebrates and plants/algae – for which chronic toxicity test methods are available. Because there are no acute toxicity test methods for plants/algae, the Tentative Permit requires two species re-screening for acute toxicity testing. Similarly, because there are no acute endpoints in chronic toxicity test methods using plants/algae, chronic toxicity test methods for invertebrate or vertebrate species can only be used to measure the acute endpoint in such tests.

Modification: There is no change in response to this comment.

Comment: *The Tentative Permit should include information on the MLs that JWPCP currently uses for all Ocean Plan, Table B constituents. Providing this information will provide the public and the RWQCB members with a way to compare MLs to the Table B limits and WQBELs in the permit. Ideally, all of the MLs are below the Table B limit values.*

Response: The Discharger reported any test result that is above its reporting limit as a detected concentration. Hence, the reporting limits included in Appendix 1 can be compared to MLs in the Ocean Plan.

Modification: There is no change in response to this comment.

Comment: *A year by year summary of influent and effluent water quality with average and maximum concentrations would be very useful in the Tentative Permit's Fact Sheet. This would be especially useful to understand water quality changes after wastewater treatment facility modifications to reach full secondary treatment. In addition, a detailed, year by year, compliance summary (WQBELs and toxicity) for the JWPCP and its discharge should be provided in the permit. Did the compliance summary provided on page F-10 of the fact sheet include toxicity?*

Response: Regional Board staff disagree with HTB's assertion that the Fact Sheet should provide a year by year summary of influent and effluent water quality data. These data are readily available in the annual reports submitted by the Discharger. The Tentative Fact Sheet already contained a summary of self-monitoring report data from November 2002 to August 2005 (Section II.C) and compliance history (Section II.D). Monitoring data indicate that the discharger has constantly complied with the toxicity limits of Order No. 97-090.

Modification: There is no change in response to this comment.